
HOUSE BILL No. 1775

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-17-5.

Synopsis: Titles for repossessed motor vehicles. Provides a procedure under which a person who holds a lien on and has repossessed a motor vehicle, semitrailer, or recreational vehicle that is located in and titled in Indiana may obtain a certificate of title to the motor vehicle, semitrailer, or recreational vehicle from the bureau of motor vehicles. Provides a procedure under which a dealer, a transfer dealer, or an automobile auctioneer may obtain a title from the bureau to a motor vehicle, semitrailer, or recreational vehicle that is located in or titled in another state for a person who holds a lien on and has repossessed the motor vehicle, semitrailer, or recreational vehicle, without regard to the repossessing person's state of residence or business. Provides for a civil penalty and injunctive relief and suspension or revocation of the license of a dealer, transfer dealer, or automobile auctioneer against a person who fraudulently obtains a title through the use of the procedure or violates a rule or order of the bureau. Makes conforming changes.

Effective: July 1, 2001.

Kuzman, Whetstone

January 17, 2001, read first time and referred to Committee on Roads and Transportation.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1775

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-7 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) "Automobile auctioneer"
3 means a person who is engaged in the business of, or as a part of the
4 auctioneer's business participates in, providing a place of business or
5 facilities for the purchase and sale of motor vehicles on the basis of
6 bids by persons acting for themselves or others. The term does not
7 include a person acting only as an auctioneer under IC 25-6.1-1.
8 (b) "Automobile auctioneer, Class I", for purposes of IC 9-17-5,
9 has the meaning set forth in IC 9-17-5-2.5.
10 (c) "Automobile auctioneer, Class II", for purposes of IC 9-17-5,
11 has the meaning set forth in IC 9-17-5-2.5
12 SECTION 2. IC 9-13-2-42 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 42. (a) "Dealer" means,
14 except as otherwise provided in this section, a person who sells to the
15 general public for delivery in Indiana at least twelve (12) vehicles each
16 year. A dealer must have an established place of business that meets
17 the minimum standards prescribed by the bureau under rules adopted



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under IC 4-22-2.

(b) The term does not include the following:

- (1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.
- (2) A public officer while performing official duties.
- (3) A person who is a dealer solely because of activities as a transfer dealer.

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6) boats per year.

(d) "Dealer, Class I", for purposes of IC 9-17-5, has the meaning set forth in IC 9-17-5-2.5.

(e) "Dealer, Class II", for purposes of IC 9-17-5, has the meaning set forth in IC 9-17-5-2.5.

SECTION 3. IC 9-13-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 185. (a) "Transfer dealer" means a person other than a dealer, manufacturer, wholesale dealer, or broker who has the necessity of transferring a minimum of twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.

(b) "Transfer dealer, Class I", for purposes of IC 9-17-5, has the meaning set forth in IC 9-17-5-2.5.

(c) "Transfer dealer, Class II", for purposes of IC 9-17-5, has the meaning set forth in IC 9-17-5-2.5.

SECTION 4. IC 9-17-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) A person who holds a lien on a motor vehicle, semitrailer, or recreational vehicle **that is located in and titled in Indiana**, who has repossessed the motor vehicle, semitrailer, or recreational vehicle, and **who** wants to obtain a certificate of title for the motor vehicle, semitrailer, or recreational vehicle **may obtain the certificate of title from the bureau** in the person's name ~~may obtain the certificate of title from the bureau~~ **without regard to the repossessing person's state of residence or business if:**

- (1) the person from whom the motor vehicle, semitrailer, or recreational vehicle has been repossessed is shown ~~by the records of the bureau~~ to be the last registered owner of the motor vehicle, semitrailer, or recreational vehicle **by the repossessing person's title application and any materials submitted with the title application; and**
- (2) the person who holds the lien ~~establishes to the satisfaction of~~ **submits a title application establishing to the satisfaction of** the bureau that the person is entitled to the certificate of title; **and**



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(3) the person submits with the title application the record of inspection required by section 2.5 of this chapter.

(b) A dealer, a transfer dealer, or an automobile auctioneer may obtain a title from the bureau to a motor vehicle, semitrailer, or recreational vehicle that is located in or titled in another state for a person who holds a lien on the motor vehicle, semitrailer, or recreational vehicle, who has repossessed the motor vehicle, semitrailer, or recreational vehicle, and who wants to obtain a certificate of title in the person's name for the motor vehicle, semitrailer, or recreational vehicle, without regard to the repossessing person's state of residence or business, if:

(1) the dealer, transfer dealer, or automobile auctioneer submits a title application on behalf of the person who holds the lien, establishing to the satisfaction of the bureau that the person is entitled to the certificate of title;

(2) the person from whom the motor vehicle, semitrailer, or recreational vehicle has been repossessed is shown to be the last registered owner of the motor vehicle, semitrailer, or recreational vehicle by the title application and any materials submitted with the title application;

(3) the materials required by section 2.5 of this chapter are submitted with the title application; and

(4) the materials required by subsections (c) and (d) are submitted with the title application.

(c) In addition to the requirements of subsection (b), the applicant must submit the following materials:

(1) An affidavit of ownership showing that the dealer, transfer dealer, automobile auctioneer, or other person is entitled to the certificate of title.

(2) An affidavit from the dealer, transfer dealer, automobile auctioneer, or other person confirming compliance with the statutes governing repossession in the state where the vehicle is located.

(3) An affidavit indicating whether the vehicle currently has or should have a title notation, including a notation as to whether the vehicle is:

(A) salvage;

(B) rebuilt;

(C) junk; or

(D) flood damaged.

(4) An affidavit, in a form prescribed by the bureau, demonstrating that the vehicle, if required, has been inspected

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in compliance with section 2.5 of this chapter.

(5) If the motor vehicle, semitrailer, or recreational vehicle has been titled in another state, proof that a bond in the amount of fifty thousand dollars (\$50,000) has been obtained and provided in a form satisfactory to the bureau by the dealer, transfer dealer, automobile auctioneer, or other person on whose behalf the title is sought. The bond must apply to any losses incurred due to the wrongful titling of a vehicle under this section.

(6) Any additional material required by statute or rules.

(d) If an application for a certificate of title is for a vehicle titled in and located in another state, the application must be accompanied by:

(1) the certificate of title issued for the vehicle by the other state;

(2) a sworn bill of sale or dealer's invoice fully describing the vehicle and the most recent registration receipt issued for the vehicle; or

(3) a title inquiry identifying the current owner, certified by the applicant and demonstrating that the applicant has a lien on or other interest in the vehicle.

(e) A title may not be issued for a vehicle unless the bureau has conducted a National Crime Information Center (NCIC) stolen motor vehicle check and has communicated adverse results, if any, to the state police department.

(f) Submission of a fraudulent affidavit or application under this chapter will subject the affiant and applicant, if different, to civil liability for all damages incurred by a subsequent purchaser or transferee of any title, including reasonable attorney's fees and court costs.

(g) Notwithstanding IC 9-17-2-9, when a repossessing person applies for a certificate of title for a motor vehicle, semitrailer, or recreational vehicle, the repossessing person is not required to apply for a registration if the repossessing person holds the motor vehicle, semitrailer, or recreational vehicle for resale.

(h) The repossessing person or the person from whom the motor vehicle, semitrailer, or recreational vehicle has been repossessed is not required to have an Indiana address for the bureau, upon application, to issue a certificate of title for the motor vehicle, semitrailer, or recreational vehicle.

SECTION 5. IC 9-17-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2001]: Sec. 2.5. (a) As used in this section, "automobile auctioneer, Class I" means an automobile auctioneer (as defined in IC 9-13-2-7) that:

(1) has been in the business of selling, transferring, or assisting in the transfer of motor vehicles for at least five (5) years;

(2) has sold, transferred, or assisted in the transfer of at least one hundred fifty (150) motor vehicles during the preceding year; and

(3) has a current license under IC 9-23-2.

(b) As used in this section, "automobile auctioneer, Class II" means an automobile auctioneer (as defined in IC 9-13-2-7) that:

(1) has been in the business of selling, transferring, or assisting in the transfer of motor vehicles for at least five (5) years;

(2) has sold, transferred, or assisted in the transfer of at least one thousand five hundred (1,500) motor vehicles during the preceding year; and

(3) has a current license under IC 9-23-2.

(c) As used in this section, "dealer, Class I" means a dealer (as defined in IC 9-13-2-42) that:

(1) has been in the business of selling, transferring, or assisting in the transfer of motor vehicles for at least five (5) years;

(2) has sold, transferred, or assisted in the transfer of at least one hundred fifty (150) motor vehicles during the preceding year; and

(3) has a current license under IC 9-23-2.

(d) As used in this section, "dealer, Class II" means a dealer (as defined in IC 9-13-2-42) that:

(1) has been in the business of selling, transferring, or assisting in the transfer of motor vehicles for at least five (5) years;

(2) has sold, transferred, or assisted in the transfer of at least one thousand five hundred (1,500) motor vehicles during the preceding year; and

(3) has a current license under IC 9-23-2.

(e) As used in this section, "transfer dealer, Class I" means a transfer dealer (as defined in IC 9-13-2-185) that:

(1) has been in the business of selling, transferring, or assisting in the transfer of motor vehicles for at least five (5) years;

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(2) has sold, transferred, or assisted in the transfer of at least one hundred fifty (150) motor vehicles during the preceding year; and

(3) has a current license under IC 9-23-2.

(f) As used in this section, "transfer dealer, Class II" means a transfer dealer (as defined in IC 9-13-2-185) that:

(1) has been in the business of selling, transferring, or assisting in the transfer of motor vehicles for at least five (5) years;

(2) has sold, transferred, or assisted in the transfer of at least one thousand five hundred (1,500) motor vehicles during the preceding year; and

(3) has a current license under IC 9-23-2.

(g) An application for a certificate of title for a repossessed motor vehicle, semitrailer, or recreational vehicle titled in and located in Indiana may not be accepted by the bureau unless the motor vehicle, semitrailer, or recreational vehicle has been inspected by one (1) of the following:

(1) An employee or representative of:

(A) A dealer, Class I.

(B) A dealer, Class II.

(C) A transfer dealer, Class I.

(D) A transfer dealer, Class II.

(E) An automobile auctioneer, Class I.

(F) An automobile auctioneer, Class II.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(h) An application for a certificate of title for a repossessed motor vehicle, semitrailer, or recreational vehicle titled in or located in another state may not be accepted by the bureau unless the motor vehicle, semitrailer, or recreational vehicle has been inspected by one (1) of the following:

(1) An employee or representative of:

(A) A dealer, Class II.

(B) A transfer dealer, Class II.

(C) An automobile auctioneer, Class II.

(2) A military policeman assigned to a military post outside Indiana.

(3) A police officer duly appointed in another state.

(i) A person described in subsection (g) or (h) who inspects a

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motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of the inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application, including:

(A) that the vehicle identification number (VIN) on the motor vehicle, semitrailer, or recreational vehicle matches the vehicle identification number on the title application;

(B) that the vehicle color matches the color on the title application; and

(C) that the vehicle's odometer matches the mileage on the title application and the odometer statement.

SECTION 6. IC 9-17-5-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. If a dealer, a transfer dealer, or an automobile auctioneer intentionally violates or aids, induces, or causes a violation of section 2 of this chapter, the dealer's, transfer dealer's, or automobile auctioneer's license may be suspended or revoked in the manner provided for the suspension or revocation of licenses in IC 9-23-2-14.**

SECTION 7. IC 9-17-5-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6. In addition to any other penalty imposed under this chapter, a dealer, a transfer dealer, an automobile auctioneer or other person who fraudulently obtains a title for a motor vehicle, semitrailer, or recreational vehicle under section 2 of this chapter is subject to a civil penalty of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000) for each violation, as determined by the court. All civil penalties recovered under this chapter shall be deposited in the state general fund.**

SECTION 8. IC 9-17-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 7. If a person violates this chapter or a rule or order of the bureau issued under this chapter, the bureau may institute a civil action in any circuit or superior court of Indiana for:**

(1) injunctive relief to restrain the person from continuing the activity;

(2) the imposition and recovery of a civil penalty under section 6 of this chapter; or

(3) both injunctive relief under subdivision (1) and a civil penalty under subdivision (2).

SECTION 9. IC 9-17-5-8 IS ADDED TO THE INDIANA CODE

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1 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2001]: **Sec. 8. At the request of the bureau, the attorney general**
3 **shall institute and conduct an action in the name of the state for:**
4 **(1) injunctive relief under section 7 of this chapter;**
5 **(2) the imposition of a civil penalty under section 6 of this**
6 **chapter; or**
7 **(3) both injunctive relief under subdivision (1) and a civil**
8 **penalty under subdivision (2).**

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